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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.681 OF 1998

The Commissioner of Income-tax ..Applicant.
V/s.
M/s.Gujchem Distillers India Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 4TH APRIL, 2005.

P.C. :-

1. Heard the learned counsel for the applicant. The Tribunal has referred question for the opinion of this Court reading as under :-

> "1. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that assessee was entitled to depreciation on the written down value of the assets computed without deducting the amount of subsidy received from the Government ?
>
> 2. Whether , on the facts and in the circumstances of the case, the Tribunal was right in law in holding that computing the capital base for the purpose of relief under section 80J of the Income-tax Act, 1961 the amount of Rs.15,00,000/- received as subsidy from the Government was not to be deducted from the cost of the assets ? "

2. So far the first question is concerned, the same has already been answered by the Apex Court in the case of **C.I.T. V/s. P.J. Chemicals Ltd. [(1994) 210 I.T.R. 830 (S.C.)** in the affirmative i.e. in favour of the assessee and against the revenue. Whereas the second question is also answered by the Division Bench of this Court in the case of **C.I.T. V/s. Menezes Farmaco [(1999) 236 I.T.R. 780 (Bom.)]** in favour of the assessee and against the revenue. In this view of the matter, reference stands disposed of accordingly with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)